

Unapproved Draft Minutes

ASSISTED LIVING ADVISORY COUNCIL (ALAC) MINUTES

April 15, 2003
10:00 a.m. – 12:00 p.m.
Via Video-Teleconference
Carson City- 505 E. King St. Rm. 103 (Kinkead Bldg.)
Las Vegas- 1161 S. Valley View Conference Rm. (Special Children's Clinic)

COUNCIL MEMBERS PRESENT

Las Vegas-
Terry Smith, Pharmacist
Saraah Ganti, RFA
June Kern, RN, RFA
Martha E. Hilario, RFA
Margaret McConnell, RN, RFA
Samuel T. Gee, RFA

Carson City-
Dell Williams, RFA
Barbara Lawrence, RFA
Wendy Simons, RFA

COUNCIL MEMBERS EXCUSED

John Gabor, RFA
Tamara Greene, LSW

HEALTH DIVISION STAFF PRESENT

Las Vegas-
Lisa Jones, HFS IV
Paul Shubert, HFS III
Monica Schlegel, Intern-UNLV

Carson City-
Pam Graham, Chief BLC
Debbie Humphreys, HFS III
Linda Ficklin, ASO I

ATTORNEY GENERAL STAFF PRESENT

Randy Munn, Deputy Attorney General

Margaret McConnell opened the meeting at approximately 10:05am with introductions from all present.

Terry Smith was appointed as Secretary to take the minutes for the April meeting.

The minutes from the March meeting were approved by Wendy Simons and seconded by Martha Hilario.

The removal of Sandy Mrkacek for non-attendance was brought forth to the group. A motion to approve the removal was brought forth by Wendy Simons and seconded by Dell Williams. The group voted and the motion carried.

The removal of a second member, Tamara Greene, was brought up for discussion. After consultation with Randy Munn, DAG, it was agreed by the group the item should be placed on next month's agenda. The group was asked to consider other members to replace those removed or potentially removed. Mafe Rabino and Karen Bell from Leisure Living Adult Care Home asked to be considered as part of the ALAC membership. They are new to the meetings and are owners/operators of small assisted living facilities.

Pam Graham gave an update on legislative bills. She stated that all bills could be viewed on-line. Assembly Bill (AB) 326 provides for the regulation of assisted living services. The current terminology and language describing "Assisted Living" as presented could have a negative impact on the industry. The bill has currently passed as "Exempt", meaning it doesn't have to meet the normal deadlines. Wendy was in contact with Assemblywoman Buckley and stated they are still working on the language and the bill still needs to go to the Ways and Means Committee. Barbara Lawrence stated that neither her facility nor Dell William's facility have bathrooms in each bedroom. The requirement for bathrooms in each room would be a huge impact on the smaller facilities who consider themselves assisted living facilities. Wendy Simons stated that at a recent meeting, participated by the Health Division Administration, AARP, Medicaid and others, all wanted the privacy of bathrooms kept in the language. She added that the phrase "may or may not" be added to provide consistency throughout the bill. She stated the bill could still be amended. Margaret McConnell added that a definition or criteria is needed regarding the number of people sharing a bathroom in regards to privacy. She added that the Coalition of Assisted Residential Environments (CARE) is representing many assisted living facilities in regards to this bill. Mafe Rabino indicated that having a separate bathroom actually has a beneficial affect, it requires the resident to get up, get out and walk, providing exercise and socializing rather than simply staying in their room. Debbie Humphreys added that the current administrative code language concerning the ratio of toilets to residents affects only those facilities licensed after 1997. There are ongoing concerns regarding bathrooms and resident privacy, especially in those facilities where entire families reside with the residents. Pam Graham also noted that everyone could contact their legislator as individuals, although ALAC, CARE and other organizations may make recommendations that represent large numbers of facilities, each individual may personally contact their legislators as well, e-mail may be the preferred method of contact. (Please see attached AB 326)

AB 349 talks about education and training in Gerontology. A meeting that included the Board of Nursing, the Board of Pharmacy and the Health Division showed little support for this bill. According to Pam, the final language will "encourage" rather than "require" training and education in Gerontology. (Please see attached AB 349)

AB 350 in summary prohibits the State Board of Health (BOH) from requiring certain residential facilities to purchase or maintain a policy of liability insurance. Pam stated the Health Division strongly opposes this bill, but the bill passed with the current with amendments. No one at the meeting was aware of any of the amendments. Martha Hilario suggested a change in language to include "60 year old persons and under". Wendy Simons brought up removal of the language of "older person". She stated the liability would still be required, but suggested a cap be placed on claims. (Please see attached AB 350)

Senate Bill (SB) 412, authorizing installment payments for licensees, was approved for 2004. (Please see attached SB 412)

SB 84, regarding the Surety Bonds, is supported by the Health Division. Margaret McConnell asked about the amounts of the Surety Bond. Wendy Simons had stated they were reduced. (Please see attached SB 84)

Pam Graham provided an update of the variances to liability insurance. She indicated the variance period was not to exceed 6 months. The facilities would be required to provide a monthly report as to their efforts to obtain insurance, must post signage that they do not have liability insurance, must provide a letter to the resident that they do not have liability insurance and a letter to the resident's legal guardian (if any) that they do not have insurance. She indicated the variances would be reviewed on a case-by-case basis. She also noted that Dave Breedlove (insurance representative) has been in contact with several companies

across the country. There is one possible company in Utah, but he's not certain yet. Wendy Simons stated that Church Mutual will not cover small facilities if their census is less than 75%. They also will only insure depending on documentation, including census, surveys, outward/inward appearance and client appropriate for facility. Martha Hilario indicated that State Farm is willing to provide coverage if you live in the facility. Saraah Ganti said she met with Carla Sloan. She indicated Carla was unaware of the severity of this problem and would speak with assemblywoman Buckley. Saraah told Carla there were currently 10 to 12 facilities without coverage. A question was posed to the group why they couldn't self insure. Wendy Simons stated there were not enough facilities in Nevada and that a \$5 million dollar bond was required up front. Wendy suggested that it might be better to input new verbiage into an existing bill AB 350 through the amendment process rather than introducing a new bill.

Monica Schlegel provided a review of the Complaint Task Force meeting on March 27, 2003. She stated they welcomed new members and discussed the anonymous complaints and the costs associated with investigations. It was questioned why the licensed facilities should have to pay the costs for unlicensed facility investigations. They also discussed the need for creative methods to finance the costs to conduct investigations. A PowerPoint presentation was provided by Monica regarding a new pilot program to streamline the survey process. Margaret McConnell complemented Monica on her fine work and research. Monica provided some feedback from the surveys wherein she went along. There were several cases of inappropriate residents; therefore the pilot program could not be used. Margaret McConnell asked if forms or a book for the pilot program would be available to the facilities. Paul Shubert stated a checklist for the abbreviated survey process is available. He also stated since the abbreviated survey forms are based on the regulations that are evaluated during the focus survey, the focus survey book may be more useful for facilities to check themselves. Debbie Humphreys indicated she does not want facilities to "focus" on the abbreviated survey. Facilities must be prepared for all rules/regulations and the survey can be expanded whenever necessary to go beyond the abbreviated or focus survey. She also answered a question regarding point values. These are based on the severity of deficiencies. Lisa Jones thanked Monica Schlegel and said she was a quick learner and a great resource. Wendy Simons said we want to expand the use of students and wanted to get students from UNR and UNLV to look at fee methodologies.

Paul Shubert discussed additional information provided in the Complaint Task Force letter titled Creative Methods to Fund Shortfall for Complaints. After the letter was reviewed, discussion was opened to the group. Wendy Simons asked to define "other activities" in item #2. Paul indicated that complaint investigations would be a portion of those other activities. Dell Williams questioned the term "substantiated complaint" in item #3. Paul Shubert suggested that no fees would be charged until the end of the survey process, thus allowing for informal dispute resolution and a hearing wherein an initially substantiated complaint may eventually be determined un-substantiated. It was suggested this be added to the current language. Item #3 was briefly discussed and involves the tightening of the threshold for investigating complaints to only include immediate jeopardy concerns.

Margaret McConnell indicated that recommendations concerning these and other creative funding methods should be received from the task force at the next ALAC meeting.

Margaret McConnell then introduced the second letter from the Complaint Task Force titled Task Force Proposals. This letter is an action item on the agenda and lists the recommendations from the task force to ALAC.

Item #1, Margaret McConnell asked for greater participation from our industry on the Task Force, particularly in the North. Barbara Lawrence agreed to represent the rural area from the North and Wendy Simons agreed to participate from the North. She also wanted to talk to two other people in the North. Debbie Humphreys will coordinate phone conferencing for next Thursday's meeting (May 22, 2003; 1:30PM).

Item #2, Margaret McConnell indicated that there is a relationship in this item and the insurance issue. She indicated we need to have a cleaner survey without destroying its integrity of the survey process or document. A formal recommendation was put to the group. Motion was seconded by Martha Hilario; none opposed. Item #2 is a formal recommendation to BLC.

Item #3, Training was discussed, particularly 3 specific target groups. Martha Hilario suggested everyone help motivate other owners to attend training meetings. Mafe Rabino stated there should be some requirements addressing cultural and age differences between the caregivers and residents. Terry Smith suggested adding Physicians to the list of target groups for education. Pam Graham suggested partnering with a pharmaceutical company and providing a "brown bag" lunch for Physicians. Wendy Simons said to check with her, as she had done similar things previously. A recommendation was made that funds collected through penalties could be used for educational purposes. Pam Graham added that it is in statute that monies collected can pay for some education on a limited basis. The question was asked about the amount of funds available. BLC will provide this information at the next meeting. Item #3 as modified by discussion is a formal recommendation to BLC.

Item #4, Concerns a toll-free line for the bureau to receive complaints in order to make the process more efficient. Pam Graham indicated that she has already started looking into this recommendation. Item #4 is a formal recommendation to BLC.

Linda Ficklin was introduced to the group. She reviewed fee methodologies, trying to refine last years methods. She stated both bed fees and licensing fees are currently being reviewed. Pam Graham added that due to time restraints, fee reviews needed to be completed by the end of the week. They are trying to streamline the fees as much as possible, yet be as fair as possible. A public workshop will be held on May 12, 2003. Lisa Jones indicated that she has been tasked with determining how time is spent/utilized down to the ¼ hour in order to determine fees using the time & effort methodology. Pam Graham recognized Lisa Jones for her time and hardwork regarding fee methodologies.

Provider Training was opened for discussion. Martha Hilario brought up the "Train the Trainer" suggestion; allowing the administrator to attend training classes, then train their caregivers. It was noted this type of training is sufficient to meet the regulatory requirements with proper documentation. This cannot be used when training requires "an approved course", as in Medication Management classes or Alzheimer's classes. However, the administrator can and should provide refresher classes in these subjects as updates. Surveyors require documentation of training in accordance with the regulations, to include a course outline, date, length of time spent on subjects and rosters with employee signatures.

June Kern asked if there was somewhere on-line to obtain training classes, meetings, etc. Debbie Humphreys noted the ElderCare.org site lists many meetings. Margaret McConnell stated CARE is not listed on this site, but will get together with the site owners to add the organization.

Margaret McConnell asked for any public comment. Karen Bell stated she felt welcomed to the meeting and noted she feels like she found a home.

Everyone was thanked for his or her cooperation and participation. There being no further discussion, the meeting was adjourned by Martha Hilario and seconded by Dell Williams.

Attachments follow: AB 326, AB 349, AB 350, SB 412, SB 84, Complaint Task Force Letter with Proposals, Complaint Task Force Letter Creative Methods to Fund Shortfall

The following language was obtained from the Nevada Legislative web site on 4/21/03, each of the bills discussed below may have undergone language changes since that date. The language is being provided here for informational purposes only. Due to the legislative process, any or all of the language may change or have already changed by the time you receive these minutes.

AB 326

Amend the bill as a whole by deleting sections 1 through 54 and the text of repealed sections and adding new sections designated sections 1 and 2, following the enacting clause, to read as follows:

“**Section 1.** NRS 449.037 is hereby amended to read as follows:

449.037 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.001 to 449.240, inclusive, and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Health Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive laser surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive.

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

which provide care to persons with Alzheimer’s disease.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive laser surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. The Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Health Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The regulations must prohibit a residential facility for groups from claiming that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Contain toilet facilities and a separate sleeping area or bedroom; and

(2) Are shared with another occupant only upon consent of both occupants.

(c) Despite a decline in the physical or mental condition of its residents, the facility allows its residents to continue to live in their own living units and retain the right to assume risks inherent in living in a separate living unit to the extent of the resident's individual ability to consciously assume the responsibility for that risk.

(d) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and his personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed for and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

Sec. 2. NRS 449.230 is hereby amended to read as follows:

449.230 1. Any authorized member or employee of the Health Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.001 to 449.245, inclusive. For the purposes of this subsection, "building or premises" does not include a mobile unit that is operated by a medical facility which is accredited by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association.

2. The State Fire Marshal or his designee shall, upon receiving a request from the Health Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection ~~7~~ 8 of NRS 449.037:

(a) Enter and inspect a residential facility for groups; and

(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection ~~7~~ 8 of NRS 449.037,

to ensure the safety of the residents of the facility in an emergency.

3. The State Health Officer or his designee shall enter and inspect at least annually each building or the premises of a residential facility for groups to ensure compliance with standards for health and sanitation.

4. An authorized member or employee of the Health Division shall enter and inspect any building or premises operated by a residential facility for groups within 72 hours after the Health Division is notified that a residential facility for groups is operating without a license.”.

Amend the title of the bill to read as follows:

“AN ACT relating to residential facilities for groups; requiring the State Board of Health to adopt separate regulations for the licensure and regulation of residential facilities for groups which provide assisted living services; limiting the circumstances under which a residential facility for groups may claim to offer assisted living services; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Requires separate regulation of residential facilities for groups which claim to provide assisted living services. (BDR 40-954)”.

AB 349

Amend the bill as a whole by deleting section 1 and renumbering sec. 2 as section 1.

Amend the bill as a whole by deleting sec. 3 and adding new sections designated sections 2 through 4, following sec. 2, to read as follows: “**Sec. 2.** NRS 630.253 is hereby amended to read as follows:

630.253 **1.** The Board shall, as a prerequisite for the:

~~1-1~~ **(a)** Renewal of a license as a physician assistant; or

~~1-2~~ **(b)** Biennial registration of the holder of a license to practice medicine,

require each holder to comply with the requirements for continuing education adopted by the Board. These requirements may provide for the completion of one or more courses of instruction relating to risk management in the performance of medical services.

2. *The Board shall encourage each holder of a license who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:*

(a) The skills and knowledge that the licensee needs to address aging issues;

(b) Approaches to providing health care to older persons, including both didactic and clinical approaches;

(c) The biological, behavioral, social and emotional aspects of the aging process; and

(d) The importance of maintenance of function and independence for older persons.

Sec. 3. NRS 632.343 is hereby amended to read as follows:

632.343 **1.** The Board shall not renew any license issued under this chapter until the licensee has submitted proof satisfactory to the Board of completion, during the 2-year

period before renewal of the license, of 30 hours in a program of continuing education approved by the Board. The licensee is exempt from this provision for the first biennial period after graduation from:

- (a) An accredited school of professional nursing;
- (b) An accredited school of practical nursing;
- (c) An approved school of professional nursing in the process of obtaining accreditation; or
- (d) An approved school of practical nursing in the process of obtaining accreditation.

2. The Board shall review all courses offered to nurses for the completion of the requirement set forth in subsection 1. The Board may approve nursing and other courses which are directly related to the practice of nursing as well as others which bear a reasonable relationship to current developments in the field of nursing or any special area of practice in which a licensee engages. These may include academic studies, workshops, extension studies, home study and other courses.

3. The Board shall encourage each licensee who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

- (a) The skills and knowledge that the licensee needs to address aging issues;**
- (b) Approaches to providing health care to older persons, including both didactic and clinical approaches;**
- (c) The biological, behavioral, social and emotional aspects of the aging process; and**
- (d) The importance of maintenance of function and independence for older persons.**

Sec. 4. This act becomes effective on July 1, 2003.”.

Amend the title of the bill by deleting the first through fourth lines and inserting:
“AN ACT relating to older persons; requiring the Board of Medical Examiners and the State Board of Nursing to encourage licensees who treat or care for persons who are more than 60 years of age to receive continuing education in geriatrics and gerontology; removing the limitation”.

AB 350

Section 1. Chapter 449 of NRS is hereby amended by adding

1-2 thereto the provisions set forth as sections 2 and 3 of this act.

1-3 **Sec. 2. “Older patient” means a patient who is 60 years of**
1-4 **age or older.**

1-5 **Sec. 3. The Board shall not require a residential facility for**
1-6 **groups which provides care only to older patients to purchase or**
1-7 **maintain a policy of liability insurance for the facility.**

1-8 **Sec. 4.** NRS 449.001 is hereby amended to read as follows:

1-9 449.001 As used in this chapter, unless the context otherwise

1-10 requires, the words and terms defined in NRS 449.0015 to 449.019,

1-11 inclusive, **and section 2 of this act** have the meanings ascribed to

1-12 them in those sections.

1-13 **Sec. 5.** NRS 449.030 is hereby amended to read as follows:
1-14 449.030 1. No person, state or local government or agency
1-15 thereof may operate or maintain in this state any medical facility or

2-1 facility for the dependent without first obtaining a license therefor as
2-2 provided in NRS 449.001 to 449.240, inclusive~~H~~, *and sections 2*
2-3 *and 3 of this act.*

2-4 2. Unless licensed as a facility for hospice care, a person, state
2-5 or local government or agency thereof shall not operate a program
2-6 of hospice care without first obtaining a license for the program
2-7 from the Board.

2-8 **Sec. 6.** NRS 449.037 is hereby amended to read as follows:

2-9 449.037 1. The Board shall adopt:

2-10 (a) Licensing standards for each class of medical facility or
2-11 facility for the dependent covered by NRS 449.001 to 449.240,
2-12 inclusive, *and sections 2 and 3 of this act*, and for programs of
2-13 hospice care.

2-14 (b) Regulations governing the licensing of such facilities and
2-15 programs.

2-16 (c) Regulations governing the procedure and standards for
2-17 granting an extension of the time for which a natural person may
2-18 provide certain care in his home without being considered a
2-19 residential facility for groups pursuant to NRS 449.017. The
2-20 regulations must require that such grants are effective only if made
2-21 in writing.

2-22 (d) Regulations establishing a procedure for the indemnification
2-23 by the Health Division, from the amount of any surety bond or other
2-24 obligation filed or deposited by a facility for refractive laser surgery
2-25 pursuant to NRS 449.068 or 449.069, of a patient of the facility who
2-26 has sustained any damages as a result of the bankruptcy of or any
2-27 breach of contract by the facility.

2-28 (e) Any other regulations as it deems necessary or convenient to
2-29 carry out the provisions of NRS 449.001 to 449.240, inclusive~~H~~,
2-30 *and sections 2 and 3 of this act.*

2-31 2. The Board shall adopt separate regulations governing the
2-32 licensing and operation of:

2-33 (a) Facilities for the care of adults during the day; and

2-34 (b) Residential facilities for groups,
2-35 which provide care to persons with Alzheimer's disease.

2-36 3. The Board shall adopt separate regulations for:

2-37 (a) The licensure of rural hospitals which take into consideration
2-38 the unique problems of operating such a facility in a rural area.

2-39 (b) The licensure of facilities for refractive laser surgery which
2-40 take into consideration the unique factors of operating such a
2-41 facility.

2-42 (c) The licensure of mobile units which take into consideration
2-43 the unique factors of operating a facility that is not in a fixed
2-44 location.

3-1 4. The Board shall require that the practices and policies of
3-2 each medical facility or facility for the dependent provide
3-3 adequately for the protection of the health, safety and physical,
3-4 moral and mental well-being of each person accommodated in the
3-5 facility.

3-6 5. The Board shall establish minimum qualifications for
3-7 administrators and employees of residential facilities for groups. In
3-8 establishing the qualifications, the Board shall consider the related
3-9 standards set by nationally recognized organizations which accredit
3-10 such facilities.

3-11 6. The Board shall adopt separate regulations regarding the
3-12 assistance which may be given pursuant to NRS 453.375 and
3-13 454.213 to an ultimate user of controlled substances or dangerous
3-14 drugs by employees of residential facilities for groups. The
3-15 regulations must require at least the following conditions before
3-16 such assistance may be given:

3-17 (a) The ultimate user's physical and mental condition is stable
3-18 and is following a predictable course.

3-19 (b) The amount of the medication prescribed is at a maintenance
3-20 level and does not require a daily assessment.

3-21 (c) A written plan of care by a physician or registered nurse has
3-22 been established that:

3-23 (1) Addresses possession and assistance in the administration
3-24 of the medication; and

3-25 (2) Includes a plan, which has been prepared under the
3-26 supervision of a registered nurse or licensed pharmacist, for
3-27 emergency intervention if an adverse condition results.

3-28 (d) The prescribed medication is not administered by injection
3-29 or intravenously.

3-30 (e) The employee has successfully completed training and
3-31 examination approved by the Health Division regarding the
3-32 authorized manner of assistance.

3-33 7. The Board shall, if it determines necessary, adopt
3-34 regulations and requirements to ensure that each residential facility
3-35 for groups and its staff are prepared to respond to an emergency,
3-36 including, without limitation:

3-37 (a) The adoption of plans to respond to a natural disaster and
3-38 other types of emergency situations, including, without limitation,
3-39 an emergency involving fire;

3-40 (b) The adoption of plans to provide for the evacuation of a
3-41 residential facility for groups in an emergency, including, without
3-42 limitation, plans to ensure that nonambulatory patients may be
3-43 evacuated;

3-44 (c) Educating the residents of residential facilities for groups
3-45 concerning the plans adopted pursuant to paragraphs (a) and (b); and

4-1 (d) Posting the plans or a summary of the plans adopted
4-2 pursuant to paragraphs (a) and (b) in a conspicuous place in each
4-3 residential facility for groups.

4-4 **Sec. 7.** NRS 449.070 is hereby amended to read as follows:
4-5 449.070 The provisions of NRS 449.001 to 449.240, inclusive,
4-6 *and sections 2 and 3 of this act* do not apply to:

4-7 1. Any facility conducted by and for the adherents of any
4-8 church or religious denomination for the purpose of providing
4-9 facilities for the care and treatment of the sick who depend solely
4-10 upon spiritual means through prayer for healing in the practice of
4-11 the religion of the church or denomination, except that such a
4-12 facility must comply with all regulations relative to sanitation and
4-13 safety applicable to other facilities of a similar category.

4-14 2. Foster homes as defined in NRS 424.014.

4-15 3. Any medical facility or facility for the dependent operated
4-16 and maintained by the United States Government or an agency
4-17 thereof.

4-18 **Sec. 8.** NRS 449.160 is hereby amended to read as follows:
4-19 449.160 1. The Health Division may deny an application for
4-20 a license or may suspend or revoke any license issued under the
4-21 provisions of NRS 449.001 to 449.240, inclusive, *and sections 2*
4-22 *and 3 of this act* upon any of the following grounds:

4-23 (a) Violation by the applicant or the licensee of any of the
4-24 provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, *and*
4-25 *sections 2 and 3 of this act* or of any other law of this state or of the
4-26 standards, rules and regulations adopted thereunder.

4-27 (b) Aiding, abetting or permitting the commission of any illegal
4-28 act.

4-29 (c) Conduct inimical to the public health, morals, welfare and
4-30 safety of the people of the State of Nevada in the maintenance and
4-31 operation of the premises for which a license is issued.

4-32 (d) Conduct or practice detrimental to the health or safety of the
4-33 occupants or employees of the facility.

4-34 (e) Failure of the applicant to obtain written approval from the
4-35 Director of the Department of Human Resources as required by
4-36 NRS 439A.100 or as provided in any regulation adopted pursuant to
4-37 this chapter, if such approval is required.

4-38 2. In addition to the provisions of subsection 1, the Health
4-39 Division may revoke a license to operate a facility for the dependent
4-40 if, with respect to that facility, the licensee that operates the facility,
4-41 or an agent or employee of the licensee:

4-42 (a) Is convicted of violating any of the provisions of
4-43 NRS 202.470;

4-44 (b) Is ordered to but fails to abate a nuisance pursuant to NRS
4-45 244.360, 244.3603 or 268.4124; or

5-1 (c) Is ordered by the appropriate governmental agency to correct
5-2 a violation of a building, safety or health code or regulation but fails
5-3 to correct the violation.

5-4 3. The Health Division shall maintain a log of any complaints
5-5 that it receives relating to activities for which the Health Division
5-6 may revoke the license to operate a facility for the dependent
5-7 pursuant to subsection 2.

5-8 4. On or before February 1 of each odd-numbered year, the
5-9 Health Division shall submit to the Director of the Legislative
5-10 Counsel Bureau a written report setting forth, for the previous
5-11 biennium:

5-12 (a) Any complaints included in the log maintained by the Health
5-13 Division pursuant to subsection 3; and

5-14 (b) Any disciplinary actions taken by the Health Division
5-15 pursuant to subsection 2.

5-16 **Sec. 9.** NRS 449.163 is hereby amended to read as follows:

5-17 449.163 1. If a medical facility or facility for the dependent
5-18 violates any provision related to its licensure, including any
5-19 provision of NRS 439B.410, 449.001 to 449.240, inclusive, *and*
5-20 *sections 2 and 3 of this act*, or any condition, standard or regulation
5-21 adopted by the Board, the Health Division in accordance with the
5-22 regulations adopted pursuant to NRS 449.165 may:

5-23 (a) Prohibit the facility from admitting any patient until it
5-24 determines that the facility has corrected the violation;

5-25 (b) Limit the occupancy of the facility to the number of beds
5-26 occupied when the violation occurred, until it determines that the
5-27 facility has corrected the violation;

5-28 (c) Impose an administrative penalty of not more than \$1,000
5-29 per day for each violation, together with interest thereon at a rate not
5-30 to exceed 10 percent per annum; and

5-31 (d) Appoint temporary management to oversee the operation of
5-32 the facility and to ensure the health and safety of the patients of the
5-33 facility, until:

5-34 (1) It determines that the facility has corrected the violation
5-35 and has management which is capable of ensuring continued
5-36 compliance with the applicable statutes, conditions, standards and
5-37 regulations; or

5-38 (2) Improvements are made to correct the violation.

5-39 2. If the facility fails to pay any administrative penalty imposed
5-40 pursuant to paragraph (c) of subsection 1, the Health Division may:

5-41 (a) Suspend the license of the facility until the administrative
5-42 penalty is paid; and

5-43 (b) Collect court costs, reasonable attorney's fees and other
5-44 costs incurred to collect the administrative penalty.

6-1 3. The Health Division may require any facility that violates
6-2 any provision of NRS 439B.410, 449.001 to 449.240, inclusive, *and*
6-3 *sections 2 and 3 of this act*, or any condition, standard or regulation
6-4 adopted by the Board, to make any improvements necessary to
6-5 correct the violation.

6-6 4. Any money collected as administrative penalties pursuant to
6-7 this section must be accounted for separately and used to protect the
6-8 health or property of the residents of the facility in accordance with
6-9 applicable federal standards.

6-10 **Sec. 10.** NRS 449.220 is hereby amended to read as follows:

6-11 449.220 1. The Health Division may bring an action in the
6-12 name of the State to enjoin any person, state or local government
6-13 unit or agency thereof from operating or maintaining any facility
6-14 within the meaning of NRS 449.001 to 449.240, inclusive~~+~~, *and*
6-15 *sections 2 and 3 of this act*:

6-16 (a) Without first obtaining a license therefor; or

6-17 (b) After his license has been revoked or suspended by the
6-18 Health Division.

6-19 2. It is sufficient in such action to allege that the defendant did,
6-20 on a certain date and in a certain place, operate and maintain such
6-21 facility without a license.

6-22 **Sec. 11.** NRS 427A.175 is hereby amended to read as follows:

6-23 427A.175 1. Within 1 year after an older patient sustains
6-24 damage to his property as a result of any act or failure to act by a
6-25 facility for intermediate care, a facility for skilled nursing, a
6-26 residential facility for groups or an agency to provide nursing in the
6-27 home in protecting the property, the older patient may file a verified
6-28 complaint with the Division setting forth the details of the damage.

6-29 2. Upon receiving a verified complaint pursuant to subsection
6-30 1, the Administrator shall investigate the complaint and attempt to
6-31 settle the matter through arbitration, mediation or negotiation.

6-32 3. If a settlement is not reached pursuant to subsection 2, the
6-33 facility, agency or older patient may request a hearing before
6-34 the Specialist for the Rights of Elderly Persons. If requested, the
6-35 Specialist for the Rights of Elderly Persons shall conduct a hearing
6-36 to determine whether the facility or agency is liable for damages to
6-37 the patient. If the Specialist for the Rights of Elderly Persons
6-38 determines that the facility or agency is liable for damages to the
6-39 patient, he shall order the amount of the surety bond pursuant to
6-40 NRS 449.065 or the substitute for the surety bond necessary to pay
6-41 for the damages pursuant to NRS 449.067 to be released to the
6-42 Division. The Division shall pay any such amount to the older
6-43 patient or the estate of the older patient.

6-44 4. The Division shall create a separate account for money to be
6-45 collected and distributed pursuant to this section.

7-1 5. As used in this section:
7-2 (a) "Agency to provide nursing in the home" has the meaning
7-3 ascribed to it in NRS 449.0015;
7-4 (b) "Facility for intermediate care" has the meaning ascribed to
7-5 it in NRS 449.0038;
7-6 (c) "Facility for skilled nursing" has the meaning ascribed to it
7-7 in NRS 449.0039;
7-8 (d) "Older patient" has the meaning ascribed to it in ~~NRS~~
7-9 ~~449.063;~~ *section 2 of this act*; and
7-10 (e) "Residential facility for groups" has the meaning ascribed to
7-11 it in NRS 449.017.
7-12 **Sec. 12.** NRS 449.063 is hereby repealed.
7-13 **Sec. 13.** This act becomes effective on July 1, 2003.

7-14 TEXT OF REPEALED SECTION

7-15 **449.063 "Older patient" defined.** As used in this section
7-16 and NRS 449.065 and 449.067, "older patient" means a patient who
7-17 is 60 years of age or older.

SB 412

Section 1. NRS 449.050 is hereby amended to read as follows:

1-2 449.050 1. Except as otherwise provided in subsection 2,
1-3 each application for a license must be accompanied by such fee as
1-4 may be determined by regulation of the Board. *The Board may, by*
1-5 *regulation, allow or require payment of a fee for a license in*
1-6 *installments and may fix the amount of each payment and the date*
1-7 *that the payment is due.*

1-8 2. A facility for the care of adults during the day is exempt
1-9 from the fees imposed by the Board pursuant to this section.

1-10 **Sec. 2.** NRS 449.060 is hereby amended to read as follows:

1-11 449.060 1. Each license issued pursuant to NRS 449.001 to
1-12 449.240, inclusive, expires on December 31 following its issuance
1-13 and is renewable for 1 year upon reapplication and payment of ~~the~~
1-14 ~~fee provided in NRS 449.040 and~~ *all fees required pursuant to*

2-1 **NRS** 449.050 unless the Health Division finds, after an
2-2 investigation, that the facility has not:
2-3 (a) Satisfactorily complied with the provisions of NRS 449.001
2-4 to 449.240, inclusive, or the standards and regulations adopted by
2-5 the Board;
2-6 (b) Obtained the approval of the Director of the Department of
2-7 Human Resources before undertaking a project, if such approval is
2-8 required by NRS 439A.100; or
2-9 (c) Conformed to all applicable local zoning regulations.
2-10 2. Each reapplication for an agency to provide nursing in the
2-11 home, a residential facility for intermediate care, a facility for
2-12 skilled nursing or a residential facility for groups must include,
2-13 without limitation, a statement that the facility or agency is in
2-14 compliance with the provisions of NRS 449.173 to 449.188,
2-15 inclusive.
2-16 **Sec. 3.** This act becomes effective on July 1, 2003.

SB 84

Section 1. NRS 449.065 is hereby amended to read as follows:

1-2 449.065 1. Except as otherwise provided in ~~{subsection}~~
1-3 **subsections 6 and 7** and NRS 449.067, each facility for intermediate
1-4 care, facility for skilled nursing, residential facility for groups and
1-5 agency to provide nursing in the home shall, when applying for a
1-6 license or renewing a license, file with the Administrator of the
1-7 ~~{Aging Services Division of the Department of Human Resources}~~
1-8 **Health Division** a surety bond:

2-1 (a) If the facility or agency employs less than 7 employees, in
2-2 the amount of ~~[\$10,000;]~~ **\$5,000;**

2-3 (b) If the facility or agency employs at least 7 but not more than
2-4 25 employees, in the amount of ~~[\$50,000;]~~ **\$25,000;** or

2-5 (c) If the facility or agency employs more than 25 employees, in
2-6 the amount of ~~[\$100,000;]~~ **\$50,000.**

2-7 2. A bond filed pursuant to this section must be executed by
2-8 the facility or agency as principal and by a surety company as
2-9 surety. The bond must be payable to the Aging Services Division of
2-10 the Department of Human Resources and must be conditioned to
2-11 provide indemnification to an older patient who the Specialist for
2-12 the Rights of Elderly Persons determines has suffered property
2-13 damage as a result of any act or failure to act by the facility or
2-14 agency to protect the property of the older patient.

2-15 3. Except when a surety is released, the surety bond must cover
2-16 the period of the initial license to operate or the period of the
2-17 renewal, as appropriate.

2-18 4. A surety on any bond filed pursuant to this section may be
2-19 released after the surety gives 30 days' written notice to the
2-20 Administrator of the ~~{Aging Services Division of the Department of~~
2-21 ~~Human Resources;}~~ **Health Division**, but the release does not
2-22 discharge or otherwise affect any claim filed by an older patient for
2-23 property damaged as a result of any act or failure to act by the
2-24 facility or agency to protect the property of the older patient alleged
2-25 to have occurred while the bond was in effect.

2-26 5. A license is suspended by operation of law when the facility
2-27 or agency is no longer covered by a surety bond as required by this
2-28 section or by a substitute for the surety bond pursuant to NRS
2-29 449.067. The Administrator of the ~~{Aging Services Division of the~~
2-30 ~~Department of Human Resources}~~ **Health Division** shall give the
2-31 facility or agency at least 20 days' written notice before the release
2-32 of the surety or the substitute for the surety, to the effect that the
2-33 license will be suspended by operation of law until another surety
2-34 bond or substitute for the surety bond is filed in the same manner
2-35 and amount as the bond or substitute being terminated.

2-36 6. The Administrator of the ~~{Aging Services Division of the~~
2-37 ~~Department of Human Resources}~~ **Health Division** may exempt a
2-38 residential facility for groups from the requirement of filing a surety
2-39 bond pursuant to this section if the Administrator determines that
2-40 the requirement would result in undue hardship to the residential
2-41 facility for groups.

2-42 **7. The requirement of filing a surety bond set forth in this**
2-43 **section does not apply to a facility for intermediate care, facility**
2-44 **for skilled nursing, residential facility for groups or agency to**

3-1 *provide nursing in the home that is operated and maintained by*
3-2 *the State of Nevada or an agency thereof.*

3-3 **Sec. 2.** NRS 449.067 is hereby amended to read as follows:

3-4 449.067 1. As a substitute for the surety bond required
3-5 pursuant to NRS 449.065, a facility for intermediate care, a facility
3-6 for skilled nursing, a residential facility for groups and an agency to
3-7 provide nursing in the home may deposit with any bank or trust
3-8 company authorized to do business in this state, upon approval from
3-9 the Administrator of the ~~{Aging Services Division of the~~
3-10 ~~Department of Human Resources;}~~ **Health Division:**

3-11 (a) An obligation of a bank, savings and loan association, thrift
3-12 company or credit union licensed to do business in this state;

3-13 (b) Bills, bonds, notes, debentures or other obligations of the
3-14 United States or any agency or instrumentality thereof, or
3-15 guaranteed by the United States; or

3-16 (c) Any obligation of this state or any city, county, town,
3-17 township, school district or other instrumentality of this state, or
3-18 guaranteed by this state, in an aggregate amount, based upon
3-19 principal amount or market value, whichever is lower.

3-20 2. The obligations of a bank, savings and loan association,
3-21 thrift company or credit union must be held to secure the same
3-22 obligation as would the surety bond required by NRS 449.065. With
3-23 the approval of the Administrator of the ~~{Aging Services Division,}~~
3-24 **Health Division,** the depositor may substitute other suitable
3-25 obligations for those deposited, which must be assigned to the
3-26 Aging Services Division of the Department of Human Resources
3-27 and are negotiable only upon approval by the Administrator of the
3-28 Aging Services Division.

3-29 3. Any interest or dividends earned on the deposit accrue to the
3-30 account of the depositor.

3-31 4. The deposit must be an amount at least equal to the surety
3-32 bond required by NRS 449.065 and must state that the amount may
3-33 not be withdrawn except by direct and sole order of the
3-34 Administrator of the Aging Services Division.

3-35 **Sec. 3.** On July 1, 2003, or as soon thereafter as practicable,
3-36 the Administrator of the Aging Services Division of the Department
3-37 of Human Resources shall transfer to the Administrator of the
3-38 Health Division of the Department to carry out the provisions of this
3-39 act:

3-40 1. All bonds filed with the Administrator of the Aging Services
3-41 Division pursuant to NRS 449.065 and administered by the
3-42 Administrator of the Aging Services Division as of June 30, 2003;

3-43 2. All information concerning obligations deposited with a
3-44 bank or trust company pursuant to NRS 449.067 and administered

4-1 by the Administrator of the Aging Services Division as of June 30,
4-2 2003; and
4-3 3. Any other information that the Administrator of the Aging
4-4 Services Division believes would assist the Administrator of the
4-5 Health Division in carrying out the provisions of this act.
4-6 **Sec. 4.** This act becomes effective on July 1, 2003.

Complaint Task Force Letters Follow:

Re: Letter to Assisted Living Advisory Council (A.L.A.C.) with Task Force Proposals

From: Complaint Task Force – Sub-Committee to A.L.A.C.

Date: Tuesday, April 15, 2003

The Complaint Task Force has met monthly since January 30, 2003. The Task Force members are Saraah Ganti, Margaret Rose Residential Care Center, Samuel Gee, Universal Home Care, Margaret McConnell, Charleston Residential Care Hotel, Martha Hilario, Golden Home Care, Paul Shubert, HFS III, Bureau of Licensure and Certification, and Monica Schlegel, U.N.L.V. Student Intern. Over the course of the meetings, several concerns have been identified. We would like to bring to the attention of the Assisted Living Advisory Council the concerns and the recommended proposals from the Complaint Task Force.

1. The Task Force is seeking greater participation from the industry. A request for additional members was discussed at the March 18, 2003 A.L.A.C. meeting. The work of the Task Force is only as good as its members. The Task Force provides an excellent forum to explore and recommend solutions for a better complaint resolution process. The membership of the Task Force should be a reflection of A.L.A.C. representing large and small facilities, public and private and different geographic Nevada locations. Presently, the Task Force has four representatives from Southern Nevada, two representing large residential care facilities and two representing small residential care facilities. The group wants to include at least two representatives from Northern Nevada and one or two representatives from Rural Nevada. Teleconferencing via the State Operator is available to facilitate the presence of all members.
2. The Task Force has suggested to the BLC discontinuing the present process of reporting unsubstantiated complaints on the Statement of Deficiencies document. The Task Force recommends a letter to the facility indicating the favorable outcome.
3. The Task Force recognizes the value of education in reducing the number of complaints. The members have identified the following groups of people that would benefit from education as 1) Caregivers, 2) Discharge Planners, and 3) Ombudsmen and Surveyors. These groups have been identified based on the deficiencies that are sited and on actual complaint data.
 - a. Specifically, Caregivers would benefit from education addressing resident problem behavior and learning better interpersonal relationships and communication skills.

- b. Regulations concerning admissions, licensing levels and standards, and allowable medical conditions/prohibitions are educational opportunities suitable for Discharge Planners.
- c. The Ombudsmen and Surveyors need for continuing education in proper interview techniques and investigation procedures would increase their effectiveness.

Bureau staff is willing to partner with the community for educational presentations by lending their expertise and knowledge. Funds collected by the Bureau through penalties are available for educational purposes.

4. The Task Force proposes a single point of entry for all complaints by instituting a statewide hot-line. The hot-line would allow for better management of incoming calls by having the calls routed to a voice message system and retrieved regularly throughout the business day. The hot-line would be staffed by employees that are proficient in obtaining all the necessary complaint information and then relaying it to the appropriate staff person. Both anonymous and identified calls would be welcomed. Historical data show that sixteen percent of the total anonymous AGC/Z calls are substantiated re-enforcing the Bureau's goal to investigate both anonymous and identified sources of complaints.

In bringing these proposed recommendations to the attention of the Assisted Living Advisory Council, the Complaint Task Force requests further direction from A.L.A.C. The proposals are in keeping with the BLC's goal to work directly with the residential care industry to find ways to streamline processes, reduce costs, and improve quality of care.

Re: Letter to Assisted Living Advisory Council (A.L.A.C.) Concerning Creative Methods to Fund Shortfall for Complaints

From: Complaint Task Force – Sub-Committee to A.L.A.C.

Date: Tuesday, April 15, 2003

The Complaint Task Force has met monthly since January 30, 2003. The Task Force members are Saraah Ganti, Margaret Rose Residential Care Center, Samuel Gee, Universal Home Care, Margaret McConnell, Charleston Residential Care Hotel, Martha Hilario, Golden Home Care, Paul Shubert, HFS III, Bureau of Licensure and Certification, and Monica Schlegel, U.N.L.V. Student Intern. The Complaint Task Force identified a total of \$16,986.00 that was spent on investigating fourteen Immediate Jeopardy complaints and nine Unlicensed Adult Group Care facilities, while \$88,920.00 was associated with 120 Non-IJ High/Medium complaints for a total of \$105,906.00 in 2002. In an effort to not repeat last summer's budget crisis along with another wave of licensure fee increases, the Complaint Task Force has discussed the following changes in procedures to fund shortfalls for complaint investigations.

1. The AGC/Z surveyors began a pilot program on Monday, March 31, 2003. The goals of the abbreviated survey process are immediate facility feedback and quicker correction of deficiencies by the facility, while at the same time making the process more efficient for the Bureau. The abbreviated survey form would continue to focus on the same areas that were determined to affect residents most, to include health and safety, sanitation, dietary issues, and medication management. After reviewing the results of the pilot program, regulations would be presented to allow the facility to receive a grade based on the survey. Those facilities receiving a "B" or "C" grade would have the option of re-inspection for a fee, enabling them to achieve an A grade. Low-grade performers, those with a "D" grade, would have a mandatory re-inspection for a fee, requiring them to achieve a higher grade. The grade placards would be issued immediately upon re-inspection wherein corrections were accomplished, providing immediate status upgrade. It is thought that the abbreviated survey process would ultimately enable the Bureau to fund complaint investigations by becoming more efficient in day to day operations.
2. Fee based "fast tracking" of applications to fund quicker initial surveys and other activities is another creative method to fund shortfalls. "Fast-tracking" is a proven value-added service used by local governments such as building and plan review departments. The facility would have the choice to expedite processes while at the same time covering the additional time and effort costs incurred by the Bureau.
3. A third idea is to charge facilities for the costs incurred by the Bureau for a substantiated complaint. With this idea, the poor performers are paying for the services of the Bureau. The

Bureau's mission is to protect the safety and welfare of the public through the promotion and advocacy of quality health care through regulation, enforcement, and education.

4. Finally, the Task Force discussed tightening the threshold for investigating complaints to include only immediate jeopardy concerns.

The Task Force recognizes the urgency of this matter. The Task Force will continue to study the circumstances surrounding the funding of complaints and will bring forth recommendations at a later date.